

OPINION 1583

Scorpaenichthys marmoratus (Osteichthyes, Scorpaeniformes): Ayres, 1854 to be taken as the author of the specific name

Ruling

(1) It is hereby ruled that the specific name *marmoratus* Ayres, 1854, as published in the binomen *Hemitripterus* [sic] *marmoratus*, has priority over the name *marmoratus* Girard, 1854, as published in the binomen *Scorpaenichthys marmoratus*.

(2) The name *Scorpaenichthys* Girard, 1854 (gender: masculine), type species by monotypy *Scorpaenichthys marmoratus* Girard, 1854 (a junior subjective synonym of *Hemitripterus* [sic] *marmoratus* Ayres, 1854), is hereby placed on the Official List of Generic Names in Zoology.

(3) The name *marmoratus* Ayres, 1854 (8 September), as published in the binomen *Hemitripterus* [sic] *marmoratus* (senior subjective synonym of *Scorpaenichthys marmoratus* Girard, 1854 [6 October], the type species of *Scorpaenichthys* Girard, 1854), is hereby placed on the Official List of Specific Names in Zoology.

History of Case 2619

An application concerning the authorship and date of the specific name of the North Pacific cabezon *Scorpaenichthys marmoratus* was received from Drs Robert N. Lea (*California Department of Fish and Game, Monterey, California, U.S.A.*) & William N. Eschmeyer (*California Academy of Sciences, San Francisco, California, U.S.A.*) on 14 July 1987. After correspondence the case was published in BZN 45: 132–134 (June 1988). Notice of the case was sent to appropriate journals. No comments were received.

The specific name *marmoratus* for the species was published independently in 1854 by W.O. Ayres and by C.F. Girard. Ayres' name was published on 8 September in *The Pacific*, a San Francisco journal (in which the California Academy published its meeting reports), and again on 22 September in the *Proceedings of the California Academy of Natural Sciences*, 1: 3. Girard's *marmoratus* appeared in the *Proceedings of the Academy of Natural Sciences of Philadelphia*, 7: 132; the actual date of publication is unknown but a copy was received by the American Philosophical Society (Philadelphia) by 6 October, and under Article 21g of the Code this is taken as the formal date of publication.

Because Girard published the generic name *Scorpaenichthys*, with his *marmoratus* as type species of the new genus by monotypy, and because his work may have actually been published before that of Ayres, Drs Lea & Eschmeyer asked that the name *marmoratus* Ayres be suppressed. The application noted (BZN 45: 133, para. 5) that both Ayres and Girard have been cited in the literature as author of the name *marmoratus*. In recent years Ayres has been given more often.

Decision of the Commission

On 1 September 1989 the members of the Commission were invited to vote on the proposals published in BZN 45: 133. At the close of the voting period on 1 December 1989 the votes were as follows:

Affirmative votes — 14: Bayer, Bock, Cocks, Corliss, Dupuis, Hahn, Halvorsen, Kabata, Nye, Ride, Starobogatov, Thompson, Trjapitzin, Uéno

Negative votes — 14: Cogger, Heppell, Holthuis, Kraus, Lehtinen, Macpherson, Mahnert, Martins de Souza, Minelli, Mroczkowski, Nielsen, Savage, Schuster, Willink.

Thompson commented that he voted for *marmoratus* being taken from Girard, because of the ambiguous date and nature of Ayres' publication. Library research might show that Girard's name had in fact been published first, especially since Ayres' 8 September 1854 report in *The Pacific* was not 'for permanent scientific record' [cf. Article 8a(i) of the Code]. This would not apply to the 22 September *Proceedings* paper, and in September 1854 the California Academy directed that its proceedings be published in *The Pacific*. Voting against the application, Cogger said that suppression of Ayres' name was unwarranted and that attribution of *marmoratus* to him would not cause difficulty. If that had been the case, a better solution would have been to rule that Girard's name had priority.

Since the voting period it has been discovered that in March 1855 Ayres himself attributed *marmoratus* to Girard, but this appears to have been based not on publication but on Girard having presented his paper the earlier (see BZN 45: 132, paras. 3 and 4; *Proceedings of the California Academy of Natural Sciences*, 1: 12, 32).

Provisions of the Code (in the present case Articles 21 and 23) may only be set aside by the Commission using its plenary powers, necessitating a two-thirds majority vote. A simple majority is taken as a preliminary vote only, and a two-thirds majority is required in a second vote. In the present case there was no majority in favour of the proposals on BZN 45: 133, which are therefore rejected; Ayres should thus be taken as the valid author of *marmoratus*.

Original references

The following are the original references to the names placed on Official Lists by the ruling given in the present Opinion:

marmoratus, *Hemitripterus*, Ayres, 1854, *The Pacific* (San Francisco), 3(44): 174.

Scorpaenichthys Girard, 1854, *Proceedings of the Academy of Natural Sciences of Philadelphia*, 7: 131.